

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

MOSES PEREZ and DEE PEREZ,

*Plaintiffs,*

v.

K&B TRANSPORTATION, INC., and KIARA  
WHARTON,

*Defendants.*

Case No. 1:17-cv-02610

Honorable Judge Pallmeyer

**PLAINTIFFS' FIRST MOTION FOR A RULING ON THE DEFENDANTS',  
K&B TRANSPORTATION, INC. & KIARA WHARTON OBJECTIONS TO  
PLAINTIFFS' REQUESTS TO PRODUCE #36, 37 & 40**

NOW Come the Plaintiffs, MOSES and DEE PEREZ, by and through their attorneys, COGAN & POWER, P.C., and Move this Honorable Court for a Ruling on the Defendant, K&B TRANSPORTATION, INC.'s & KIARA WHARTON's Objections, and state:

1. On July 14, 2017, Plaintiffs first propounded discovery upon the Defendants. At which time, Plaintiff requested the Defendants produce "All training materials provided by K&B Transportation to its truck drivers, including Kiara Wharton;" and "All safety materials, including videos, provided by K&B Transportation to its truck drivers including Kiara Wharton." (**Exhibit A at ¶¶36-37**). Further, Plaintiffs also requested "all of Kara Wharton's personnel files, payroll receipts, employment and other agreements, pay stubs, and tax documents for the years 2010 through 2016." (**Exhibit A at ¶40**).

2. On August 15, 2017, Defendants responded to Plaintiffs' first requests. In response to ¶36 and 37, Defendants twenty-one documents concerning training, and a photograph of a video being played in which the training video screen says "Drivers, Drugs & Drinking." (**Exhibit B at 000194**). Moreover, Defendants response states, "Video referenced in

video is available to counsel upon request.” In response to Plaintiff’s request for all of the Defendant driver’s personnel files, etc., the Defendants produced materials including Kiara Wharton’s application to K&B and QTRACS messages between Kiara Wharton and K&B, but failed to produce any of the Defendant’s PayPak data.

3. In the week of December 11 through 15, 2017, Plaintiffs’ counsel called Defense counsel to have a 201k concerning the training videos. (**Exhibit C – Email of 12/19/17**). Defense counsel responded via email stating, “We are working on it with our client. I will update when we get it. None of our defendants are in Illinois. They will not be coming to Illinois for depositions.” (**Exhibit D – Email of 12/19/17**).

4. On January 5, 2018, Plaintiffs propounded supplemental combined discovery upon the Defendants and again requested, specifically, “all of Kiara Wharton’s PayPak Records from 2015 to 2016,” and “all documentation, data and video concerning K&B Transportation training on Federal Motor Carrier Safety Regulation 392.14.” (**Exhibit E**).

5. On February 2, 2018, Defendants responded to Plaintiffs’ supplemental combined discovery. In response to Plaintiffs’ request for the PayPak records from 2015 to 2016, Defendants assert “Defendants object to the relevance of this Request as it is not reasonably calculated to lead to the discovery of admissible evidence.” (**Exhibit F at ¶3**). In response to Plaintiff’s request for the training videos, Defendants object and cite *Gant* to argue Plaintiff is “prohibited from pursuing claims of negligence against K&B Transportation given its admission that Wharton was its employee and she was operating the tractor trailer in the scope of her employment for K&B Transpirtation (*sic*) when the accident occurred.” (**Exhibit F at ¶4**). In further response to the request for training videos, Defendants points to bates stamped pages 0251-0333 which does not include refence to any training videos by K&B Transportation.

Finally, Defendants response to Plaintiffs' request for contracts and agreements between K&B and Tyson and Meijer, they "object to the relevance and overbroad scope of this of this Request as it is not reasonably calculated to lead to the discovery of admissible evidence."

6. On February 15, 2018, Plaintiffs' counsel emailed Defense counsel to again request the Paypak records and the training videos. (**Exhibit G – Email of 2/15/18**). Defense counsel responded asserting the same objections. (**Exhibit H – Email of 2/15/18**).

7. Plaintiffs now Move for Rulings on the Defendants' objections to the production of the following three materials:

- K&B Transportation Training Videos; and
- Kiara Wharton's Paypak records.

8. Regarding the training videos, Plaintiffs seek to discover the extent of the Defendant, Kiara Wharton's education, training, experience, and general knowledge at the time of the wreck, as well as the Defendant's general practices while operating her commercial motor vehicle based upon her education, training, and experience which are relevant to the wreck of January 20, 2016.

9. Regarding the Paypak records, Plaintiffs seek to discover how many hours Defendant, Kiara Wharton had driven in the months leading up to January 20, 2016 for which she was reimbursed accordingly, and to discovery, more generally, how Defendant Wharton's pay schedule was accounted for by K&B Transportation in 2015-2016.

WHEREFORE, the plaintiffs, MOSES & DEE PEREZ Move this Honorable Court for a Ruling on the Defendants' Objections to Plaintiffs' Requests for Production Numbers 36, 37, and 40 to Avoid Further Discovery Delay.

Respectfully submitted;

By: /s/ Hadas M. Benhamou  
Attorney for Plaintiff

John M. Power  
Hadas M. Benhamou  
**Cogan & Power, P.C.**  
1 E. Wacker Drive – Suite 510  
Chicago, IL 60601  
312-477-2500  
ARDC: 6322466  
[jpower@coganpower.com](mailto:jpower@coganpower.com)  
[hbenhamou@coganpower.com](mailto:hbenhamou@coganpower.com)